

SUBJECT: Advertising of Alzheimer's disease services by nursing homes

COMMITTEE: Public Health — favorable, without amendment

VOTE: 7 ayes — Berlanga, Hirschi, Glaze, Janek, Maxey, McDonald, Rodriguez
0 nays
2 absent — Coleman, Delisi

SENATE VOTE: On final passage, February 20 — 30-0

WITNESSES: For — Charles Candler, Alzheimer's Association Coalition of Texas; Roy Ray, AARP; Andrea R. Ford, Texas Health Care Association; Loretto Bonner; Melody B. Chatelle, Living Centers of America and Texas Health Care Association

Against — None

DIGEST: SB 436 would require nursing homes that advertise the availability of special Alzheimer's disease services to disclose in writing the nature of the services to persons considering the nursing home for placement of an individual with Alzheimer's disease. The disclosure statement would have to be posted with the nursing home's license, filed with the Department of Human Services and updated when services change.

The statement would have to contain specified information, which would be further defined by board rule. A nursing home that violated disclosure requirements would be subject to an administrative penalty of up to \$10,000 a day for each violation, as determined by the DHS board.

The chair of the Texas Council on Alzheimer's Disease and Related Disorders would be required to appoint a task force to recommend information to be included in the disclosure statement. The board would be required to adopt disclosure statement and administrative penalty rules within 120 days after the date the department received the task force report. Nursing homes would have 30 days to comply with board rules.

Members of the task force would include two members each from the Texas Council on Alzheimer's Disease, the Alzheimer's Association Coalition of Texas, institutions that provide services to residents with Alzheimer's disease and from the profession of gerontology. The task force would also include an Alzheimer's expert from the Department of Human Services. The chair of the Texas Council on Alzheimer's Disease would designate the task force chair.

SB 436 would take immediate effect if approved by two thirds of the membership of each house.

**SUPPORTERS
SAY:**

SB 436 is needed to help families find a nursing home that delivers appropriate services for persons with Alzheimer's disease. Many nursing homes advertise having a special Alzheimer's unit or services but in fact may provide inadequate care or facilities for those with Alzheimer's disease. By requiring disclosure of what is advertised, the bill would help families who must choose among various services and physical environments to meet the needs of a family member.

Disclosure by nursing homes helps educate the public. Families are often in an exhausted and anxious state when selecting a nursing home and need help in evaluating nursing home services. Families would be guided in their decisions by disclosure statements with uniform informational items designed by a task force with expertise in care for those with Alzheimer's disease.

SB 436 would not increase the costs of nursing home regulation, have any fiscal impact on the state or put nursing homes out of business. Instead, it would let the marketplace regulate and monitor Alzheimer's services. The nursing homes, such as those in rural areas, that are unable to meet state certification standards for Alzheimer's care could still advertise the special services and facilities they provide, while clearly informing the public about the extent of those services.

SB 436 is based on recommendations from a year-long study by the Texas Council on Alzheimer's Disease and Related Disorders.

OPPONENTS
SAY:

SB 436 may go overboard in an attempt to educate the public and inhibit false advertising. It would generate more paperwork, regulations and liabilities for nursing homes and not necessarily ensure the delivery of good and appropriate care. Brochures, public service announcements and use of existing public and nonprofit programs may be more cost-effective in educating the public about selecting an appropriate nursing home.

Disclosure statements are somewhat duplicative and could be misleading. Some of the information that would be required is already otherwise addressed in law. The state already certifies institutions that meet certain Alzheimer's care standards and penalizes nursing homes that falsely advertise they are state-certified. Disclosure requirements somewhat legitimize services that are below state standards and may give the public a false sense of security. Nursing homes should be required to be certified in order to advertise special Alzheimer's services.

The disclosure statements could also describe optimal care-giving situations, such as staffing ratios and philosophies of care, which in fact may be rarely achieved by that nursing home.

OTHER
OPPONENTS
SAY:

SB 436 would create higher disclosure standards for a particular category of nursing home services, while ignoring the information needs of those seeking care of persons who have had strokes or other special medical conditions.